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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,414	06/26/2003	Ralph D'Agosta	02811-P0005C	5674
24126	7590	03/22/2005	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			LEJA, RONALD W	
			ART UNIT	PAPER NUMBER
			2836	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

11A

Office Action Summary	Application No. 10/606,414	Applicant(s) D'AGOSTA, RALPH	
	Examiner Ronald W. Leja	Art Unit 2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-17 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The Disclosure is objected to because of the following informalities: The status of Application 10/364,680 needs to be updated in the Continuity Statement on Page 1 of the Specification..

Appropriate correction is required.

Claims 11 and 16 are objected to because of the following informalities: It is believed that Claim 11 should more properly depend from Claim 10 and that Claim 16 should more properly depend from Claim 15. Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 4-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al. (6,628,894) in view of Alston et al. (4,947,025).

Winter et al. disclose a portable water heating system comprising a housing, wall mount brackets (for Claim 7; Col. 1, lines 60-62), water inlet with hose nipple attached (46), heating element (66), a water outlet with hose nipple (48) (also see Col. 5, lines 1-6), but do not appear to disclose use of a lining. Alston et al. teach a portable water heater, which utilizes a layer of insulation (39) completely inside of housing (11). Although Winter et al. disclose plastic construction, it would have been obvious to include a more

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rugged external metal housing, thereby increasing applications for those wherein increased durability is desired or wherein it is anticipated that the operating environment would lend itself to having an outer metal housing for longevity of the product (for Claims 1, 9-11). This would thereby benefit by use of a layer of insulation between the plastic and metal housings and be obvious as it would not only help prevent corrosion, but increase efficiency by helping to keep the water warm for a longer period of time. Winter et al. further disclose use of ground fault protection (for Claim 3); see also Col. 3, lines 36-50 and Col. 4, lines 11-27. Alston et al. further teach the use of thermostatic control (for Claim 2), wheels (Claim 4) and handle (Claims 5, 6). It would have been obvious to incorporate the teachings of Alston et al. as a means to offer ease in moving the portable water heater from location to location and the ability to adjust the temperature of the water in accordance with the changing seasons of the weather as a means to increase design application. See Fig.s 1, 2 and Col. 2, line 62 thru Col. 3, line 42 and Col. 5, lines 19-40.

Claims 3, 8 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al. in view of Alston et al. and further in view of Louchart, III (6,267,084).

Claims 3, 12 and 17 add use of a high temperature shut-off element. Winter et al. disclose an overtemperature release valve for those jurisdictions having the requirement, but do not appear to disclose a high temperature shut-off. Louchart, III teaches the use


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of a high temperature shut-off for increased safety. (Col. 3, lines 44-47). It would have been obvious to include such a feature for the increased safety, esp. wherein the environment of operation requires higher water temperatures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald W. Leja whose telephone number is (571)272-2053. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571)272-2800. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ronald W Leja
Primary Examiner
Art Unit 2836

rwl
March 20, 2005

